

Pursuant to Local Patent Rule 4-3 and the Court’s February 5, 2015, Scheduling Order (“Scheduling Order”) (Doc. No. 43), and the Court’s July 31, 2015, Order Granting Leave To File Amended Joint Claim Construction Statement (Doc. No. 70), Plaintiff e.Digital Corporation (“Plaintiff” or “e.Digital”) and Defendant Dropcam, Inc. (“Defendant” or “Dropcam”) provide the following Amended Joint Claim Construction and Pre-Hearing Statement in the above-entitled matter for U.S. Patent Nos. 8,306,514 (“the ’514 patent”); 8,311,522 (“the ’522 patent”); 8,311,523 (“the ’523 patent”); 8,311,524 (“the ’524 patent”); 8,315,618 (“the ’618 patent”); and 8,315,619 (“the ’619 patent”) (collectively, the “Asserted Patents”).

I. Agreed Upon Claim Constructions

The parties have agreed upon the following constructions for each of the claim terms and phrases listed below.

Claim Term or Phrase	Agreed Upon Construction
“being selectable to provide”	“capable of being selected to provide”
“environment of the communication device”	“surroundings of the communication device within the detectable area of the communication device”
“social template”	“data structure associated with a social hierarchy and one or more social signatures”
“unique social signature”	“social signature associated with a specific social template at the time of processing”
“optical sensor”	plain and ordinary meaning
“accurate”	“capable of desired processing”

II. Disputed Claim Constructions and Identification of Intrinsic and Extrinsic Evidence

The parties dispute the proper construction of certain claim terms. Below, Plaintiff and Defendant set forth each of the disputed claim terms, each party’s proposed construction of each disputed term, together with an identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence known to the party on which it intends to rely either to support its proposed construction or to oppose any other party’s proposed construction.

	Claim Term or Phrase	Plaintiff's Proposed Construction and Supporting Evidence	Defendant's Proposed Construction and Supporting Evidence
1.	"social signature"	<p>"raw or processed data and/or other information based on sensors"</p> <p><u>Intrinsic Evidence:</u></p> <p>Specifications¹</p> <p><i>Figures: 1, 2, 3</i></p> <p><i>'522 Specification: Abstract; 1:29-58; 2:5-30; 2:66-3:7; 3:19-60; 4:14-29; 4:65-5:6; 5:19-6:3; 6:19-24; 7:4-65; 9:5-11:6; 11:16-14:34; 14:46-53; 15:29-57; 16:14-26; 17:51-18:18; 18:22-24; 18:44-19:33; 21:15-44; 22:41-67</i></p> <p>Claims</p> <p><i>'522 patent: 1, 2, 5, 8, 9, 13, 15, 17, 18, 22, 24</i></p> <p><i>'514 patent: 1, 5, 7, 8, 10, 14, 18, 21, 24, 25, 26, 30, 34, 36</i></p> <p><i>'523 patent: 1, 2, 4, 10, 11, 17, 19, 20, 21, 26</i></p> <p><i>'524 patent: 1, 2, 3, 4, 5, 10, 15, 16, 17</i></p> <p><i>'618 patent: 1, 2, 6, 7, 11, 13, 15, 16, 20, 22, 23, 24</i></p> <p><i>'619 patent: 1, 2, 4, 10, 11,</i></p>	<p>"combination of sensor data indicative of a type of activity"</p> <p><u>Intrinsic Evidence:</u></p> <p>Specification²</p> <p><i>Figures: 1, 2, 3</i></p> <p><i>'618 Specification: 9:23-29, 14:31-41, 14:63-66, 15:38-45, 15:45-51, 15:52-55, 16:15-24, 17:30-36, 18:54-60, Tables 1 and 2.</i></p> <p>Claims</p> <p><i>'514 patent: 1, 5, 7, 8, 10, 14, 18, 21, 24, 25, 26, 30, 34, and 36.</i></p> <p><i>'522 patent: 1, 2, 5, 8, 9, 13, 15, 17, 18, 22, and 24.</i></p> <p><i>'523 patent: 1, 2, 4, 10, 11, 17, 19, 20, 21, and 26.</i></p> <p><i>'524 patent: 1, 2, 3, 4, 5, 10, 15, 16, and 17.</i></p> <p><i>'618 patent: 1, 2, 6, 7, 11, 13, 15, 16, 20, 22, 23, and 24.</i></p> <p><i>'619 patent: 1, 2, 4, 10, 11, 17, 19, 20, 21, 26, 29, 30, and</i></p>

¹ The specifications of each of the Asserted Patents contain word-for-word identical disclosures. For the sake of brevity and efficiency, Plaintiff cites specifically herein to the specification of the parent '522 patent. However, Plaintiff represents and hereby notifies the Court and Defendant that Plaintiff intends to rely on the exact same disclosures contained in the '514 patent, '523 patent, '524 patent, '618 patent and '619 patent, which specifications, again, contain exactly the same disclosures as the specification of the '522 patent.

² All supporting patent citations identified by Defendant Dropcam herein reference the specification of U.S. Patent No. 8,315,618. Dropcam reserves the right to rely upon corresponding disclosures contained in the specifications of each of the Asserted Patents. Dropcam similarly reserves the right to rely upon disclosures contained in the prosecution histories of each of the Asserted Patents corresponding to the citations identified herein.

1		17, 19, 20, 21, 26, 29, 30, 31	31.
2		<u>Extrinsic Evidence:</u>	<u>Extrinsic Evidence:</u>
3		<i>The American Heritage</i>	Sworn testimony of Dr. Earl
4		<i>Dictionary</i> (Fifth Ed. 2012)	Sacerdoti.
5		(hereinafter referred to as	
6		“AHD”) at pp. 217 (“data”),	
7		435 (“information”)	
8		<i>Barron’s Dictionary of</i>	
9		<i>Computer and Internet Terms</i>	
10		(Eleventh Ed. 2013)	
11		(hereinafter referred to as	
12		“BDCIT”) at p. 124 (“data”)	
13		Sworn testimony of the	
14		inventor, Patrick Nunally	
15	2.	“social hierarchy”	“ordered ranking of social
16		“an arrangement of persons,	groups defined within each
17		things, information and/or	social template”
18		operations in a series of	
19		levels”	<u>Intrinsic Evidence:</u>
20		<u>Intrinsic Evidence:</u>	Specification:
21		Specification:	<i>Figures: 1, 2, 3</i>
22		<i>Figures: 3</i>	<i>’618 Specification: 4:17-23,</i>
23		<i>’522 Specification: Abstract;</i>	<i>6:12-21, 14:44-50, 15:13-16,</i>
24		<i>1:29-47; 1:59-2:4; 2:31-65;</i>	<i>15:18-31, 15:45-51, 16:28-51,</i>
25		<i>3:24-42; 3:63-4:64; 5:34-59;</i>	<i>17:4-12, 17:30-36, 17:13-16,</i>
26		<i>6:4-17; 6:36-7:3; 7:38-53;</i>	<i>17:45-51, 18:23-28, and</i>
27		<i>8:10-34; 11:1-6; 14:4-45;</i>	<i>Tables 1 and 2.</i>
28		<i>15:4-17:24; 17:44-50; 18:22-</i>	Claims
		<i>36; 20:13-21:44; 22:41-67</i>	<i>’514 patent: 1, 2, 3, 4, 5, 10,</i>
		Claims	<i>14, 15, 16, 17, 20, 21, 26, 30,</i>
		<i>’522 patent: 1, 3, 4, 8, 11, 12,</i>	<i>34, and 36.</i>
		<i>17, 19, 23, 25, 26</i>	<i>’522 patent: 1, 3, 4, 8, 11, 12,</i>
		<i>’514 patent: 1, 2, 3, 4, 5, 10,</i>	<i>17, 19, 23, 25, and 26.</i>
		<i>14, 15, 16, 17, 20, 21, 26, 30,</i>	<i>’523 patent: 1, 3, 5, 6, 7, 8, 9,</i>
		<i>34, 36</i>	<i>19, and 22.</i>
		<i>’523 patent: 1, 3, 5, 6, 7, 8, 9,</i>	<i>’524 patent: 1, 5, and 6.</i>
		<i>19, 22</i>	<i>’618 patent: 1, 3, 6, 9, 10, 15,</i>
		<i>’524 patent: 1, 5, 6</i>	<i>17, 20, and 22.</i>
		<i>’618 patent: 1, 3, 6, 9, 10, 15,</i>	<i>’619 patent: 1, 3, 5, 6, 7, 8, 9,</i>
		<i>17, 20, 22</i>	<i>19, 22, and 31.</i>
		<i>’619 patent: 1, 3, 5, 6, 7, 8, 9,</i>	

1		19, 22, 31	File History
2		<u>Extrinsic Evidence:</u>	U.S. Patent & Trademark
3		<i>AHD</i> at 398 (“hierarchy”)	Office Prosecution Proceeding
4		Sworn testimony of the	No. 13/047,163 for U.S.
5		inventor, Patrick Nunally	Patent No. 8,315,618 -
6			Applicant
7			Arguments/Remarks Made in
8			an Amendment at pp. 3-5,
9			March 16, 2012.
10			<u>Extrinsic Evidence:</u>
11			<i>Chambers Concise Dictionary</i>
12			at p. 562 [DROPCAM_
13			EDTL 00001055].
14			Sworn testimony of Dr. Earl
15			Sacerdoti.
16	3.	“sensor value	“range of measurements
17		range”	between two values”
18		Plain and ordinary meaning	
19		or, alternatively, “information	
20		representing sensor data	
21		above, below or between a	
22		value(s)”	
23		<u>Intrinsic Evidence:</u>	<u>Intrinsic Evidence:</u>
24		Specification	Specification
25		<i>’522 Specification:</i> 15:43-57;	<i>Figures:</i> 1, 2, 3
26		16:14-26; 22:41-67	<i>’618 Specification:</i> 4:24-28,
27		Claims	9:41-46, 11:62-65, 12:6-13,
28		<i>’522 patent:</i> 1, 8, 17	16:15-24, 19:22-26, 15:38-45,
		<i>’514 patent:</i> 1, 5, 10, 14, 21,	and Tables 1 and 2.
		26, 30, 34, 36	Claims
		<i>’523 patent:</i> 1, 4, 19, 21	<i>’514 patent:</i> 1, 5, 10, 14, 21,
		<i>’524 patent:</i> 1, 3	26, 30, 34, and 36.
		<i>’618 patent:</i> 1, 6, 15, 20, 22	<i>’522 patent:</i> 1, 8, and 17.
		<i>’619 patent:</i> 1, 4, 19, 21, 29	<i>’523 patent:</i> 1, 4, 19, and 21.
		<u>Extrinsic Evidence:</u>	<i>’524 patent:</i> 1 and 3.
		<i>AHD</i> at p. 751 (“sensor”)	<i>’618 patent:</i> 1, 6, 15, 20, and
		<i>MWD</i> at pp. 596 (“range”),	22.
		656 (“sensor”), 797-798	<i>’619 patent:</i> 1, 4, 19, 21, and
		(“value”)	29.
		<i>BDCIT</i> at p. 406 (“range”)	<u>Extrinsic Evidence:</u>
			Sworn testimony of Dr. Earl
			Sacerdoti.

		Sworn testimony of the inventor, Patrick Nunally	
4.	"information"	<p>Plain and ordinary meaning</p> <p><u>Intrinsic Evidence:</u></p> <p>Specification</p> <p><i>Figures: 3</i></p> <p><i>'522 Specification:</i> Abstract; 1:29-47; 1:59-2:4; 2:31-65; 3:24-42; 3:63-4:64; 5:34-59; 6:4-17; 6:36-7:3; 7:38-53; 8:10-34; 11:1-6; 14:4-45; 15:4-17:24; 17:44-50; 18:22-36; 20:13-21:44; 22:41-67</p> <p>Claims</p> <p><i>'522 patent:</i> 1, 3, 4, 8, 11, 12, 17, 19, 23, 25, 26</p> <p><i>'514 patent:</i> 14, 18, 20, 21, 22, 23, 24, 25, 26, 30, 34, 36</p> <p><i>'523 patent:</i> 1, 3, 10, 19, 22, 23, 24, 25, 26</p> <p><i>'524 patent:</i> 1, 2, 3, 10</p> <p><i>'618 patent:</i> 1, 3, 6, 9, 15, 16, 20, 22</p> <p><i>'619 patent:</i> 1, 2, 3, 5, 10, 19, 22, 23, 24, 25, 26</p> <p><u>Extrinsic Evidence:</u></p> <p><i>AHD</i> at p. 435 ("information")</p> <p><i>MWD</i> at p. 372 ("information")</p> <p>Sworn testimony of the inventor, Patrick Nunally</p>	<p>"a report about a single event that results from comparison of sensor data with social templates"</p> <p><u>Intrinsic Evidence:</u></p> <p>Specification</p> <p><i>Figures: 1, 2, 3</i></p> <p><i>'618 Specification:</i> at 1:15-20, 2:40-47, 3:52-55, 4:17-23, 6:12-21, 10:46-49, 11:13-17, 14:32-41, 14:44-50, 14:63-66, 16:24-27, 15:13-16, 15:18-31, 16:28-51, 17:4-12, 17:30-36, 17:13-16, 17:45-51, 18:23-28, 17:45-51, 18:54-60, 18:64-19:4, and Tables 1 and 2.</p> <p>Claims</p> <p><i>'514 patent:</i> 1, 5, 6, 7, 8, 9, 10, 14, 18, 20, 21, 22, 23, 24, 25, 26, 30, 34, and 36.</p> <p><i>'522 patent:</i> 1, 2, 3, 4, 8, 9, 11, 12, 17, 18, 19, 23, 25, and 26.</p> <p><i>'523 patent:</i> 1, 2, 3, 5, 10, 19, 20, 22, 23, 24, 25, and 26.</p> <p><i>'524 patent:</i> 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10.</p> <p><i>'618 patent:</i> 1, 2, 3, 6, 7, 9, 10, 15, 16, 17, 20, and 22.</p> <p><i>'619 patent:</i> 1, 2, 3, 5, 10, 19, 20, 22, 23, 24, 25, 26, 29, and 30.</p> <p><u>Extrinsic Evidence:</u></p> <p>Sworn testimony of Dr. Earl Sacerdoti.</p>
5.	"provide/ provides/ providing"	<p>Plain and ordinary meaning</p>	<p>"send/sends/sending information in varying levels of granularity"</p>

1	differing levels of	<u>Intrinsic Evidence:</u>	<u>Intrinsic Evidence:</u>
2	information”	Specification	Specification
3		<i>Figures: 3</i>	<i>Figures: 1, 2, 3</i>
4		<i>’522 Specification: Abstract;</i>	<i>’618 Specification: at 1:15-20,</i>
5		<i>1:29-47; 1:59-2:4; 2:31-65;</i>	<i>2:40-47, 3:52-55, 4:17-23,</i>
6		<i>3:24-42; 3:63-4:64; 5:34-59;</i>	<i>6:12-21, 10:46-49, 14:32-41,</i>
7		<i>6:4-17; 6:36-7:3; 7:38-53;</i>	<i>14:44-50, 14:55-62, 17:45-51,</i>
8		<i>8:10-34; 11:1-6; 14:4-45;</i>	<i>18:23-28, 15:13- 16, 15:18-</i>
9		<i>15:4-17:24; 17:44-50; 18:22-</i>	<i>31, 16:28-51, 17:4-12, 17:30-</i>
10		<i>36; 20:13-21:44; 22:41-67</i>	<i>36, 17:13-16, and Tables 1</i>
11		Claims	Claims
12		<i>’522 patent: 1, 3, 4, 8, 11, 12,</i>	<i>’514 patent: 1, 5, 10, 14, 21,</i>
13		<i>17, 19, 23, 25, 26</i>	<i>26, 30, 34, and 36.</i>
14		<i>’514 patent: 1, 5, 10, 14, 20,</i>	<i>’522 patent: 1, 3, 4, 8, 11, 12,</i>
15		<i>21, 26, 30, 34, 36</i>	<i>17, 19, 23, 25, and 26.</i>
16		<i>’523 patent: 1, 3, 5, 19, 22</i>	<i>’523 patent: 1, 3, 5, 19, and</i>
17		<i>’524 patent: 1, 6</i>	<i>22.</i>
18		<i>’618 patent: 1, 3, 6, 9, 10, 15,</i>	<i>’524 patent: 1 and 6.</i>
19		<i>17, 20, 22</i>	<i>’618 patent: 1, 3, 6, 9, 10, 15,</i>
20		<i>’619 patent: 1, 3, 5, 6, 7, 8, 9,</i>	<i>17, 20, and 22.</i>
21		<i>19, 22</i>	<i>’619 patent: 1, 3, 5, 6, 7, 8, 9,</i>
22		<u>Extrinsic Evidence:</u>	<u>Extrinsic Evidence:</u>
23		<i>AHD at pp. 239 (“differ,”</i>	<i>Sworn testimony of Dr. Earl</i>
24		<i>“different”), 435</i>	<i>Sacerdoti.</i>
25		<i>(“information”), 483 (“level”),</i>	
26		<i>671 (“provide”)</i>	
27		<i>MWD at pp. 200 (“differ,”</i>	
28		<i>“different”), 372</i>	
		<i>(“information”), 414 (“level”)</i>	
		<i>Sworn testimony of the</i>	
		<i>inventor, Patrick Nunally</i>	
23	6.	Plain and ordinary meaning	“sent/sends/sending
24	“provided.../		information indicating a
25	provides/		user’s status”
26	providing an	<u>Intrinsic Evidence:</u>	<u>Intrinsic Evidence:</u>
27	update”	Specification	Specification
28		<i>’522 Specification: Abstract;</i>	<i>Figures: 1, 2, 3</i>
		<i>1:29-47; 1:59-2:4; 2:31-65;</i>	<i>’618 Specification: at 1:15-20,</i>
		<i>3:24-42; 3:63-4:64; 5:34-59;</i>	<i>2:40-47, 3:52-55, 4:17-23,</i>

1		6:4-17; 6:36-7:3; 7:38-53; 8:10-34; 11:1-6; 14:4-45; 2 15:4-17:24; 17:44-50; 18:22- 3 36; 20:13-21:44; 22:41-67 Claims <i>'522 patent:</i> N/A <i>'514 patent:</i> 1, 2, 3, 4, 14, 15, 6 16, 17, 30, 31, 32 <i>'523 patent:</i> 4, 6, 7, 8, 9, 23, 7 24, 25 <i>'524 patent:</i> 7, 8, 9 <i>'618 patent:</i> N/A <i>'619 patent:</i> 6, 7, 8, 9, 23, 24, 10 25 <u>Extrinsic Evidence:</u> <i>AHD</i> at pp. 671 (“provide”), 12 891 (“update”) <i>BDCIT</i> at pp. 316 14 15 (“microblogging”), 459 16 (“social networking site”) Sworn testimony of the inventor, Patrick Nunally	6:12-21, 10:46-49, 14:32-41, 14:44-50, 14:55-62, 17:45-51, 18:23-28, 15:13-16, 15:18-31, 16:28-51, 17:4-12, 17:30-36, 17:13-16, 20:42-50, 20:53- 21:3, and Tables 1 and 2. Claims <i>'514 patent:</i> 3, 4, 16, 17, 30, and 32. <i>'523 patent:</i> 8, 23, and 25. <i>'524 patent:</i> 7 and 9. <i>'619 patent:</i> 6, 7, 8, 9, 23, 24, and 25. File History U.S. Patent & Trademark Office Prosecution Proceeding No. 13/047,206 for U.S. Patent No. 8,306,514 – Applicant Arguments/Remarks Made in an Amendment at pp. 14-16, March 22, 2012. <u>Extrinsic Evidence:</u> <i>Dictionary of Computer and Internet Terms</i> , at pp. 309, 443 [DROPCAM_EDTL_000010 39-00001040]. Sworn testimony of Dr. Earl Sacerdoti.
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III. **Identification of Significant Claim Terms**

The parties hereby identify the following terms, in no particular order, whose construction will be most significant to the resolution of this case:

1. “social signature”
2. “social hierarchy”
3. “sensor value range”

1 4. “information”

2 5. “provide/ provides/ providing differing levels of information”

3 6. “provided.../ provides/ providing an update”

4 Plaintiff, e.Digital, does not believe construction of any of the above terms will be case or
5 claim dispositive at this time.

6 **IV. Anticipated Length of Time Necessary for Claim Construction Hearing**

7 The parties anticipate they will need three (3) hours for the Claim Construction Hearing.

8 **V. Witnesses**

9 Neither party intends to call witnesses at the Claim Construction Hearing.

10 **HANDAL & ASSOCIATES**

11 Dated: July 31, 2015

By: /s/ Gabriel G. Hedrick

12 Anton N. Handal
13 Pamela C. Chalk
14 Gabriel G. Hedrick
Attorneys for Plaintiff
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15 Dated: July 31, 2015

16 **WILSON SONSINI GOODRICH & ROSATI**
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17 By: /s/ Stefani E. Shanberg

18 Stefani E. Shanberg
19 Attorneys for Defendant
DROPCAM, INC.

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Dated: July 31, 2015

By: /s/ Madeleine E. Greene
Madeleine E. Greene

AMENDED JOINT CLAIM CONSTRUCTION
AND PRE-HEARING STATEMENT
Case No. 14-cv-04922-JST

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on July 31, 2015, I electronically filed the foregoing with the Clerk
3 of the court using the CM/ECF system which will send notification of such filing to counsel of
4 record.

5
6 By: /s/ Madeleine E. Greene
7 Madeleine E. Greene
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